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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,842	05/31/2005	Paul Andrew Bristow	FR 020123	6502
24737	7590	09/22/2008	EXAMINER	
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BRIARCLIFF MANOR, NY 10510			2623	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/536,842	BRISTOW, PAUL ANDREW	
	Examiner	Art Unit	
	Nnenna N. Ekpo	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 15 July 2008.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-18 and 20 is/are pending in the application.
 4a) Of the above claim(s) 19 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-18 and 20 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____.
 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____.
 5) Notice of Informal Patent Application
 6) Other: _____.

DETAILED ACTION

Acknowledgment

1. This Office Action is responsive to the remarks/arguments filed on July 15, 2008.

Specification

2. Previous objection to the abstract is withdrawn in view of Applicant's amendment filed on 07/15/2008.

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if

the required “Sequence Listing” is not submitted as an electronic document on compact disc).

Claim Rejections - 35 USC § 101

3. Previous rejection under **35 USC § 101** has been withdrawn in view of Applicant’s cancellation of the claim.

Response to Arguments

4. Applicant's arguments filed 07/15/2008 have been fully considered but they are not persuasive.

Applicant argues on pages 8-10 of the 07/15/2008 Remarks that Dougherty et al. (U.S. Patent No. 6,725,461) does not teach “an application data generator for generating an application data signal by retrieving the stored application data from the data storage separately from the content signal”.

In response to Applicant’s arguments, the Examiner respectfully disagrees. Dougherty et al. discloses an application data generator for generating an application data signal by retrieving the stored application data from the data storage separately from the content signal on col. 7, lines 46-57. The application data and the content signal are stored in separate storage mediums, the application data is extracted (retrieved) from its own storage medium. Examiner believes cited portion reads on the claim limitation.

Response to Arguments

5. Applicant's arguments with respect to **claim 2** have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1, 3-8, 13, 15-16 and 18-20** are rejected under 35 U.S.C. 102(e) as being anticipated by Dougherty et al. (U.S. Patent No. 6,725,461).

Regarding **claims 1 and 18**, Dougherty et al. discloses an apparatus for generating an application data signal, the apparatus comprising:

a receiver for receiving a content signal (broadcast program) comprising embedded application data (interactive application) (see col. 2, lines 58-62);
an extraction processor for extracting the application data (interactive application) from the content signal (broadcast data) (see col. 7, lines 46-48);
a data storage for storing the content signal and the application data (see col. 8, lines 11-14); and

an application data generator for generating an application data signal by retrieving the stored application data from the data storage separately from the content signal (see col. 7, lines 51-57).

Regarding **claim 3**, Dougherty et al. discloses everything claimed as applied above (see *claim 1*). Dougherty et al. discloses the apparatus wherein the content signal (program) is a video signal (see col. 3, lines 59-col. 4, line 25, broadcasting is the distribution of video and/or audio signals which transmit program contents to audience).

Regarding **claim 4**, Dougherty et al. discloses everything claimed as applied above (see *claim 1*). Dougherty et al. discloses the apparatus wherein the content signal (program) is an audio signal (see col. 3, lines 59-col. 4, line 25, broadcasting is the distribution of video and/or audio signals which transmit program contents to audience).

Regarding **claim 5**, Dougherty et al. discloses everything claimed as applied above (see *claim 1*). Dougherty et al. discloses the apparatus wherein the content signal is an MPEG 2 encoded content signal (see col. 6, lines 26-39).

Regarding **claim 6**, Dougherty et al. discloses everything claimed as applied above (see *claim 1*). Dougherty et al. discloses the apparatus wherein the content

signal is an interactive audiovisual signal (see col. 2, lines 49-52) and the application data is interactive application data (see col. 2, lines 53-58).

Regarding **claim 7**, Dougherty et al. discloses everything claimed as applied above (see *claim 6*). Dougherty et al. discloses the apparatus wherein the interactive audiovisual signal is a broadcast interactive TV signal (see col. 6, lines 1-8).

Regarding **claim 8**, Dougherty et al. discloses everything claimed as applied above (see *claim 1*). Dougherty et al. discloses the apparatus wherein the extraction processor (206) comprises means for storing the application data (212) and content data of the content signal (214) separately in the data storage (see col. 7, lines 51-57).

Regarding **claim 13**, Dougherty et al. discloses everything claimed as applied above (see *claim 1*). Dougherty et al. discloses the apparatus wherein the extraction processor removes at least some of the application data from the content Signal (see col. 7, lines 46-53).

Regarding **claim 15**, Dougherty et al. discloses everything claimed as applied above (see *claim 1*). Dougherty et al. discloses an apparatus as claimed is interactive TV data (see col. 1, lines 30-40).

Regarding **claim 16**, Dougherty et al. discloses everything claimed as applied above (see *claim 1*). Dougherty et al. discloses the apparatus wherein the extraction processor stores the content signal and the application data in the data storage according to different storage protocols (see col. 7, lines 54-67).

Regarding **claim 20**, Dougherty et al. discloses everything claimed as applied above (see *claim 18*). Dougherty et al. discloses a computer readable medium having a computer program stored thereon, said computer program, when loaded on a computer, causing the computer to execute the steps of the method as claimed above (see fig 2 and col. 4, lines 28-43).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 9-11** are rejected under 35 U.S.C. 103(a) as being unpatentable over Dougherty et al. (U.S. Patent No. 6,725,461) as applied to *claim 1* above, and further in view of Pierre et al. (U.S. Patent No. 7,000,245).

Regarding **claim 9**, Dougherty et al. discloses everything claimed as applied above (see *claim 1*). Dougherty discloses extraction processor (see fig 2 (206)).

However, Dougherty et al. fails to specifically disclose to modify an application data indication of the content signal.

Pierre et al. discloses to specifically disclose modifying an application data indication of the content signal (see col. 7, lines 61-col. 8, line 6).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Dougherty et al.'s invention with the above mentioned limitation as taught by Pierre et al. for the advantage of reducing the delay associated with the application data.

Regarding **claim 10**, Dougherty et al. and Pierre et al. discloses everything claimed as applied above (see *claim 9*). Dougherty discloses extraction processor (see fig 2 (206)).

Pierre et al. discloses an apparatus to modify the application data indication of the content signal by removing a data indication related to application data that has been removed from the content signal (see col. 6, lines 7-29).

Regarding **claim 11**, Dougherty et al. and Pierre et al. discloses everything claimed as applied above (see *claim 9*). Dougherty discloses extraction processor (see fig 2 (206)).

Pierre et al. discloses an apparatus to modify the application data indication of the content signal be associated with the application data stored in the data storage (see col. 2, lines 63-67).

10. **Claim 12** is rejected under 35 U.S.C. 103(a) as being unpatentable over Dougherty et al. (U.S. Patent No. 6,725,461) and Pierre et al. (U.S. Patent No. 7,000,245) as applied to *claim 11* above, and further in view of Smiley et al. (U.S. Publication No. 2002/0144291).

Regarding **claim 12**, Dougherty et al. and Pierre et al. discloses everything claimed as applied above (see claim 11). Dougherty discloses extraction processor (see fig 2 (206)).

Pierre et al. discloses to specifically disclose to modify an application data indication of the content signal (see col. 7, lines 61-col. 8, line 6).

However, Dougherty et al. and Pierre et al. fail to specifically disclose a network server identity through which the application data signal can be accessed.

Smiley et al. discloses a network server identity through which the application data signal can be accessed (see paragraphs 0014 and 0017).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Dougherty et al. and Pierre et al.'s invention with the above mentioned limitation as taught by Smiley et al. for the advantage of allowing a simpler and less costly device.

11. **Claims 2 and 17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Dougherty et al. (U.S. Patent No. 6,725,461) as applied to *claim 1* above, and further in view of Rodriguez et al. (U.S. Patent No. 7,373,650).

Regarding **claim 2**, Dougherty et al. discloses everything claimed as applied above (see *claim 1*). Dougherty et al. discloses extracting the interactive content from the application data (see col. 7, lines 46-48). However, Dougherty et al. fails to specifically disclose different transmission rates.

Rodriguez et al. discloses different transmission rates (see col. 24, lines 35-38).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Dougherty et al.'s invention with the above mentioned limitation as taught by Rodriguez et al. for the advantage of displaying data at a faster rate.

Regarding **claim 17**, Dougherty et al. discloses everything claimed as applied above (see *claim 1*). Dougherty et al. discloses communication element for communicating the application data signal and the content signal (see col. 8, lines 44-62). However, Dougherty et al. fails to specifically disclose different communication protocols.

Rodriguez et al. discloses different communication protocols (see col. 8, lines 62- col. 9, line 17).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Dougherty et al.'s invention with the above mentioned limitation as taught by Rodriguez et al. for the advantage of having improved performance.

12. **Claims 14** is rejected under 35 U.S.C. 103(a) as being unpatentable over Dougherty et al. (U.S. Patent No. 6,725,461) as applied to *claim 1* above, and further in view of Allen (U.S. Patent No. 6,529,233).

Regarding **claim 14**, Dougherty et al. discloses everything claimed as applied above (see *claim 1*). However, Dougherty et al. fails to specifically disclose an apparatus wherein the apparatus is a digital recording device.

Allen discloses an apparatus wherein the apparatus is a digital recording device (see col. 2, lines 19-28).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Dougherty et al.'s invention with the above mentioned limitation as taught by Allen et al. for the advantage of having more recording space.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nnenna N. Ekpo whose telephone number is 571-270-1663. The examiner can normally be reached on Monday - Friday 7:30 AM-5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on 571-272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NNE/nne
September 19, 2008.

/Brian T. Pendleton/
Supervisory Patent Examiner, Art Unit 2623